

**U.S. District Court  
Northern District of Ohio (Cleveland)  
CIVIL DOCKET FOR CASE #: 1:10-cv-00762-SL  
Internal Use Only**

Avery Dennison Corporation v. Koester GmbH  
Assigned to: Judge Sara Lioi  
Cause: 35:271 Patent Infringement

Date Filed: 04/13/2010  
Date Terminated: 10/04/2010  
Jury Demand: Plaintiff  
Nature of Suit: 830 Patent  
Jurisdiction: Federal Question

**Plaintiff**

**Avery Dennison Corporation**

Pat. # 7,291,371

represented by **David T. Movius**  
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V.

**Defendant**

**Koester GmbH**

Date Filed	#	Docket Text
04/13/2010	<u>1</u>	<b>Complaint</b> with jury demand against Koester GmbH. Filing fee paid \$ 350, Receipt number 0647-4042980. Filed by Avery Dennison Corporation. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons) (Cupar, David) (Entered: 04/13/2010)

04/13/2010		Judge Ann Aldrich assigned to case. (C,B) (Entered: 04/13/2010)
04/13/2010		Random Assignment of Magistrate Judge pursuant to Local Rule 3.1. In the event of a referral, case will be assigned to Magistrate Judge Perelman. (C,B) (Entered: 04/13/2010)
04/13/2010		Notice by Clerk that Avery Dennison Corporation failed to file a corporate disclosure statement as required by Local Rule 3.13(b). (C,B) (Entered: 04/13/2010)
04/13/2010		This action has been identified as a Patent Case that is subject to the Local Patent Rules. Link to <u>Local Patent Rules</u> . (C,B) (Entered: 04/13/2010)
04/13/2010	<u>2</u>	Original Summons and Magistrate Consent Form issued for service upon Koester GmbH. (Attachments: # <u>1</u> Magistrate Consent Form) (C,B) (Entered: 04/13/2010)
04/13/2010	<u>3</u>	Corporate Disclosure Statement filed by Avery Dennison Corporation. (Cupar, David) (Entered: 04/13/2010)
05/07/2010		<b>Pursuant to General Order 2010-12.</b> This case is returned to the Clerk for random reassignment. Judge James G. Carr on 5/3/10. (C,BA) (Entered: 05/07/2010)
05/07/2010		Judge Sara Lioi assigned to case. Judge Ann Aldrich terminated. (C,BA) (Entered: 05/07/2010)
05/07/2010		Random Assignment of Magistrate Judge pursuant to Local Rule 3.1. In the event of a referral, case will be assigned to Magistrate Judge Pearson. (C,BA) (Entered: 05/07/2010)
05/10/2010		(Court only) Utility event editing case flags. LC3 flag added. (B,IE) (Entered: 05/10/2010)
05/24/2010		(Court only) Utility Event adding attorney David T. Movius for Avery Dennison Corporation. Related document(s) <u>1</u> . (P,G) (Entered: 05/24/2010)
08/05/2010	<u>4</u>	<b>Motion</b> for extension of time until October 11, 2010 to serve Koester GmbH with summons and complaint filed by Plaintiff Avery Dennison Corporation. (Cupar, David) (Entered: 08/05/2010)
08/05/2010		<b>Order</b> [non-document] granting 4 plaintiff's motion for extension of time until October 11, 2010 to serve Koester GmbH with summons and complaint. Judge Sara Lioi on 8/5/2010.(P,J) (Entered: 08/05/2010)
09/30/2010	<u>5</u>	Notice of Dismissal Under FRCP 41(a)(1) filed by Avery Dennison Corporation. (Cupar, David) (Entered: 09/30/2010)
10/04/2010	<u>6</u>	<b>Order:</b> In light of the Rule 41(a)(1)(A)(i) dismissal by Plaintiff (Doc. No. <u>5</u> ), this case is closed. Judge Sara Lioi on 10/4/2010. (P,J) (Entered: 10/04/2010)

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**AVERY DENNISON CORPORATION,**

Plaintiff,

v.

**KOESTER GmbH,**

Defendant.

**COMPLAINT**

Avery Dennison Corporation, (“Avery”), for its complaint against defendant Koester GmbH & Co. KG, (“Koester”), alleges upon information and belief as follows:

**INTRODUCTION**

1. This is an action for damages and injunctive relief to remedy the infringement by Koester of United States Patent No. 7,291,371 (“the ‘371 Patent”) that is assigned to and owned by Avery. The ‘371 patent is directed to a mechanical closure tape, which is useful in the manufacture of disposable articles such as disposable diapers and adult incontinence articles.

**THE PARTIES**

2. Avery Dennison Corporation is a Delaware corporation having a place of business at 8080 Norton Parkway, Mentor, Ohio 44060.

3. Upon information and belief, Koester is a company organized under the laws of Germany and has a place of business at Industriestrasse-2 D-96146 Altendorf, Germany.

**JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction under 35 U.S.C. §§ 271 and 281 and 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Koester based on at least one of the following: (a) Koester has, imported, offered for sale, shipped, and sold products that infringe the '371 patent into the United States and which products have been used, shipped, and sold in Ohio and this judicial district; and (b) Koester derives substantial revenue from goods sold in Ohio.

**FACTUAL BACKGROUND**

6. Avery is a world-leading developer and manufacturer of tape products for a wide variety of applications, industries, and markets. For nearly twenty-five years, Avery has designed, produced, manufactured, and marketed a wide array of tapes that may be and are utilized as closures systems for various applications. Included among the closures systems developed by Avery are closure systems for hygienic applications such as baby diapers and adult incontinence articles.

7. On November 6, 2007, the '371 Patent entitled "Mechanical Closure Tape" issued. A copy of the '371 Patent is attached as Exhibit A. Avery is and has been the owner of all right, title, and interest to the '371 Patent, including the right to recover for infringement since the issuance of the '371 Patent.

8. Avery has not licensed or otherwise granted Koester any rights under the '371 Patent.

9. Koester offers for sale, sells, uses, and/or imports mechanical closure tape products in the United States that infringe the '371 Patent.

10. Upon information and belief, Koester has notice of the '371 Patent.

**PATENT INFRINGEMENT**

11. Koester has been and is now directly infringing one or more claims of the '371 Patent by making, using, importing, offering for sale, or selling mechanical closure tape in the United States.

12. Koester has knowingly infringed the '371 Patent. Koester's infringement of the '371 Patent has been and continues to be willful and deliberate, and Koester will continue its infringing activities unless restrained by this Court.

13. Koester has profited and will continue to profit by its infringing activities.

14. Upon information and belief, Koester's activities were done with an intent to, and in fact did allow Koester to, derive benefit from use of Avery's '371 Patent.

15. Avery has been damaged by Koester's infringing activities and will continue to be irreparably injured unless these infringing activities are enjoined by this Court.

**WHEREFORE**, Avery prays:

A. That this Court enter judgment that Koester has directly infringed one or more claims of United States Patent No. 7,291,371;

B. That this Court issue a preliminary and permanent injunction enjoining Koester, its officers, directors, managers, employees, affiliates, agents, representatives, corporate parents and those in privity with Koester from further infringement of United States Patent No. 7,291,371;

C. That this Court award Avery all of its damages caused by Koester's acts of infringement, together with interest and costs as provided for under 35 U.S.C. § 284;

D. That this Court order an accounting of Koester's profits arising out of its infringing activities and award Avery;

E. That this Court find Koester's infringement to be willful and increase the damages to three (3) times the amount found or assessed pursuant to 35 U.S.C. § 284;

F. That this Court enter judgment that this case is exceptional and award Avery their attorneys' fees in this action pursuant to 35 U.S.C. § 285; and

G. That Avery be awarded such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

Avery hereby requests trial by jury of all issues so triable.

DATED: April 13, 2010

Respectfully submitted,

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*Avery Dennison Corporation*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

AVERY DENNISON	)	CASE NO. 1:10cv762
CORPORATION,	)	
	)	
PLAINTIFF,	)	JUDGE SARA LIOI
	)	
vs.	)	
	)	ORDER
KOESTER GMBH,	)	
	)	
	)	
DEFENDANT.	)	

In light of the Rule 41(a)(1)(A)(i) dismissal by Plaintiff (Doc. No. 5), this case is closed.

**IT IS SO ORDERED.**

Dated: October 4, 2010

  
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**HONORABLE SARA LIOI**  
**UNITED STATES DISTRICT JUDGE**